

ORIGINAL

1 LEONARDO M. RAPADAS  
United States Attorney  
2 ERIC S. O'MALLEY  
Assistant United States Attorney  
3 DISTRICT OF THE NORTHERN  
MARIANA ISLANDS  
4 Horiguchi Building, Third Floor  
P.O. Box 500377  
5 Saipan, MP 96950  
Telephone: (670) 236-2980  
6 Fax: (670) 236-2985

7 Attorneys for United States of America

8 UNITED STATES DISTRICT COURT  
9 NORTHERN MARIANA ISLANDS

10 UNITED STATES OF AMERICA, )  
11 )  
12 Plaintiff, )  
13 v. )  
14 )  
15 AMIN, MOHAMAD RUHUL, )  
16 )  
17 Defendant. )

Criminal Case No. 08-00002

GOVERNMENT'S PROPOSED  
JURY INSTRUCTIONS

Trial: March 10, 2008  
Time: 9:00 a.m.  
Judge: Hon. Alex R. Munson

18  
19 The government, by and through its undersigned attorneys, hereby submits the attached  
20 proposed jury instructions in the above-captioned case, reserving the right to amend such  
21 instructions if necessary.  
22

23 LEONARDO M. RAPADAS  
United States Attorney

24  
25  
26 DATED: March 3, 2008

By:   
ERIC S. O'MALLEY  
Assistant United States Attorney

1     **1.     FUNCTION OF JURY**

2             MEMBERS OF THE JURY, NOW THAT YOU HAVE HEARD ALL OF THE  
3 EVIDENCE, IT IS MY DUTY TO INSTRUCT YOU ON THE LAW WHICH APPLIES TO  
4 THIS CASE. A COPY OF THESE INSTRUCTIONS WILL BE AVAILABLE IN THE JURY  
5 ROOM FOR YOU TO CONSULT.

6             IT IS YOUR DUTY TO FIND THE FACTS FROM ALL OF THE EVIDENCE IN THE  
7 CASE. TO THOSE FACTS, YOU WILL APPLY THE LAW AS I GIVE IT TO YOU. YOU  
8 MUST FOLLOW THE LAW AS I GIVE IT TO YOU WHETHER YOU AGREE WITH IT OR  
9 NOT. YOU MUST NOT BE INFLUENCED BY ANY PERSONAL LIKES OR DISLIKES,  
10 OPINIONS, PREJUDICES, OR SYMPATHIES. THAT MEANS THAT YOU MUST DECIDE  
11 THE CASE SOLELY ON THE EVIDENCE BEFORE YOU. YOU WILL RECALL THAT  
12 YOU TOOK AN OATH PROMISING TO DO SO AT THE BEGINNING OF THE CASE.

13            IN FOLLOWING MY INSTRUCTIONS, YOU MUST FOLLOW ALL OF THEM, AND  
14 NOT SINGLE OUT SOME AND IGNORE OTHERS; THEY ARE ALL EQUALLY  
15 IMPORTANT. YOU MUST NOT READ INTO THESE INSTRUCTIONS, OR INTO  
16 ANYTHING THE COURT MAY HAVE SAID OR DONE, ANY SUGGESTION AS TO  
17 WHAT VERDICT YOU SHOULD RETURN -- THAT IS A MATTER ENTIRELY UP TO  
18 YOU.

1 **2. THE UNITED STATES AS A PARTY**

2 YOU ARE TO PERFORM THE DUTY OF FINDING THE FACTS WITHOUT BIAS  
3 OR PREJUDICE AS TO ANY PARTY. YOU ARE TO PERFORM YOUR FINAL DUTY IN  
4 AN ATTITUDE OF COMPLETE FAIRNESS AND IMPARTIALITY. THE CASE IS  
5 IMPORTANT TO THE GOVERNMENT BECAUSE THE ENFORCEMENT OF CRIMINAL  
6 LAW IS A MATTER OF PRIME IMPORTANCE TO THE COMMUNITY. EQUALLY, IT IS  
7 IMPORTANT TO THE DEFENDANT WHO IS CHARGED WITH SERIOUS CRIMES. THE  
8 FACT THAT THE PROSECUTION IS BROUGHT IN THE NAME OF THE UNITED STATES  
9 OF AMERICA ENTITLES THE GOVERNMENT TO NO GREATER CONSIDERATION  
10 THAN THAT ACCORDED TO ANY OTHER PARTY TO A CASE. BY THE SAME TOKEN,  
11 IT IS ENTITLED TO NO LESS CONSIDERATION. ALL PARTIES, WHETHER THE  
12 GOVERNMENT OR INDIVIDUALS, STAND AS EQUALS AT THE BAR OF JUSTICE.

1 **3. INDICTMENT IS NOT EVIDENCE**

2 THE INDICTMENT IS NOT EVIDENCE. THE DEFENDANT HAS PLEADED NOT  
3 GUILTY TO THE CHARGE. THE DEFENDANT IS PRESUMED TO BE INNOCENT AND  
4 DOES NOT HAVE TO TESTIFY OR PRESENT ANY EVIDENCE TO PROVE HIS  
5 INNOCENCE. THE GOVERNMENT HAS THE BURDEN OF PROVING EVERY ELEMENT  
6 OF THE CHARGES BEYOND A REASONABLE DOUBT.

1 **4. RIGHT NOT TO TESTIFY**

2 A DEFENDANT IN A CRIMINAL CASE HAS A CONSTITUTIONAL RIGHT NOT  
3 TO TESTIFY. NO PRESUMPTION OF GUILT MAY BE RAISED, AND NO INFERENCE OF  
4 ANY KIND MAY BE DRAWN, FROM THE FACT THAT THE DEFENDANT DID NOT  
5 TESTIFY.

1 **5. PRESUMPTION OF INNOCENCE**

2 AS I TOLD YOU AT THE OUTSET OF THE TRIAL, THIS IS A CRIMINAL CASE IN  
3 WHICH THE DEFENDANT IS CHARGED WITH VIOLATING CERTAIN LAWS OF THE  
4 UNITED STATES. THE CHARGES, HOWEVER, ARE ONLY ALLEGATIONS. THE  
5 DEFENDANT IS PRESUMED TO BE INNOCENT OF THOSE CHARGES UNLESS AND  
6 UNTIL YOU, THE JURY, FIND BEYOND A REASONABLE DOUBT THAT THE  
7 DEFENDANT IS GUILTY OF ANY OFFENSE ALLEGED IN THE INDICTMENT.

1 **6. BURDEN OF PROOF**

2 IN A CRIMINAL CASE, THE GOVERNMENT ALWAYS HAS THE BURDEN OF  
3 PROOF. TO OVERCOME THE PRESUMPTION OF INNOCENCE AND PROVE THE  
4 DEFENDANT GUILTY OF AN OFFENSE, THE GOVERNMENT MUST PROVE BEYOND A  
5 REASONABLE DOUBT EACH AND EVERY ELEMENT OF THAT OFFENSE AS  
6 CHARGED IN THE INDICTMENT.

1 **7. REASONABLE DOUBT**

2 PROOF BEYOND A REASONABLE DOUBT IS PROOF THAT LEAVES YOU  
3 FIRMLY CONVINCED THAT THE DEFENDANT IS GUILTY. IT IS NOT REQUIRED  
4 THAT THE GOVERNMENT PROVE GUILT BEYOND ALL POSSIBLE DOUBT.

5 A REASONABLE DOUBT IS A DOUBT BASED UPON REASON AND COMMON  
6 SENSE AND IS NOT BASED PURELY ON SPECULATION. IT MAY ARISE FROM A  
7 CAREFUL AND IMPARTIAL CONSIDERATION OF ALL THE EVIDENCE, OR FROM A  
8 LACK OF EVIDENCE.

9 IF, AFTER A CAREFUL AND IMPARTIAL CONSIDERATION OF ALL THE  
10 EVIDENCE, YOU ARE NOT CONVINCED BEYOND A REASONABLE DOUBT THAT THE  
11 DEFENDANT IS GUILTY, IT IS YOUR DUTY TO FIND THE DEFENDANT NOT GUILTY.  
12 ON THE OTHER HAND, IF AFTER A CAREFUL AND IMPARTIAL CONSIDERATION OF  
13 ALL THE EVIDENCE, YOU ARE CONVINCED BEYOND A REASONABLE DOUBT THAT  
14 THE DEFENDANT IS GUILTY, IT IS YOUR DUTY TO FIND THE DEFENDANT GUILTY.



1 **8. EVIDENCE: WHAT IS EVIDENCE**

2 THE EVIDENCE FROM WHICH YOU ARE TO DECIDE THE FACTS OF THIS  
3 CASE ARE:

- 4 1. THE SWORN TESTIMONY OF ANY WITNESS;
- 5 2. THE EXHIBITS WHICH HAVE BEEN RECEIVED INTO EVIDENCE;
- 6 3. ANY FACTS TO WHICH THE LAWYERS HAVE STIPULATED; AND
- 7 4. ANY FACTS OF WHICH THE COURT HAS TAKEN JUDICIAL NOTICE.

1     **9. EVIDENCE: WHAT IS NOT EVIDENCE**

2             IN REACHING YOUR VERDICT, YOU MAY CONSIDER ONLY THE EVIDENCE  
3     THAT THE COURT HAS RECEIVED, THAT IS, THE TESTIMONY, EXHIBITS, AND ANY  
4     STIPULATIONS. CERTAIN THINGS, HOWEVER, ARE NOT EVIDENCE AND YOU MAY  
5     NOT CONSIDER THEM IN DECIDING THE FACTS. I WILL LIST THEM FOR YOU:

6             1.     ARGUMENTS AND STATEMENTS BY LAWYERS ARE NOT EVIDENCE.  
7     THE LAWYERS ARE NOT WITNESSES. WHAT THEY SAY IN THEIR OPENING OR  
8     CLOSING STATEMENTS, AND AT OTHER TIMES, IS INTENDED TO HELP YOU  
9     INTERPRET THE EVIDENCE, BUT IT IS NOT EVIDENCE. IF THE FACTS AS YOU  
10    REMEMBER THEM DIFFER FROM THE WAY THE LAWYERS STATE THEM, YOUR  
11    MEMORY OF THEM CONTROLS.

12            2.     QUESTIONS AND OBJECTIONS BY LAWYERS ARE NOT  
13    EVIDENCE. ATTORNEYS HAVE A DUTY TO THEIR CLIENTS TO OBJECT WHEN  
14    THEY BELIEVE A QUESTION IS IMPROPER UNDER THE RULES OF EVIDENCE. YOU  
15    SHOULD NOT BE INFLUENCED BY THE QUESTION, THE OBJECTION, OR THE  
16    COURT'S RULING ON IT.

17            3.     TESTIMONY THAT HAS BEEN EXCLUDED OR STRICKEN, OR THAT YOU  
18    HAVE BEEN INSTRUCTED TO DISREGARD, IS NOT EVIDENCE AND MUST NOT BE  
19    CONSIDERED. IN ADDITION, SOME TESTIMONY AND EXHIBITS MAY HAVE BEEN  
20    RECEIVED ONLY FOR A LIMITED PURPOSE; WHERE I HAVE GIVEN A LIMITING  
21    INSTRUCTION, YOU MUST FOLLOW IT.

22            4.     ANYTHING YOU MAY HAVE SEEN OR HEARD WHEN THE COURT WAS  
23    NOT IN SESSION IS NOT EVIDENCE. YOU ARE TO DECIDE THE CASE SOLELY ON  
24    THE EVIDENCE RECEIVED AT THE TRIAL.

25  
26  
27  
28

1 **10. EVIDENCE: DIRECT AND CIRCUMSTANTIAL**

2 THERE ARE TWO KINDS OF EVIDENCE, DIRECT AND CIRCUMSTANTIAL.  
3 DIRECT EVIDENCE IS DIRECT PROOF OF A FACT, SUCH AS TESTIMONY OF AN  
4 EYEWITNESS. CIRCUMSTANTIAL EVIDENCE IS INDIRECT EVIDENCE, THAT IS,  
5 PROOF OF A CHAIN OF FACTS FROM WHICH YOU COULD FIND THAT ANOTHER  
6 FACT EXISTS, EVEN THOUGH IT HAS NOT BEEN PROVED DIRECTLY. YOU ARE TO  
7 CONSIDER BOTH KINDS OF EVIDENCE. THE LAW PERMITS YOU TO GIVE EQUAL  
8 WEIGHT TO BOTH, BUT IT IS FOR YOU TO DECIDE HOW MUCH WEIGHT TO GIVE TO  
9 ANY EVIDENCE.

11. **CONSIDERATION OF THE EVIDENCE**

IN DECIDING THE FACTS IN THIS CASE, YOU MAY HAVE TO DECIDE WHICH TESTIMONY TO BELIEVE AND WHICH TESTIMONY NOT TO BELIEVE. YOU MAY BELIEVE EVERYTHING A WITNESS SAYS, OR PART OF IT, OR NONE OF IT.

IN CONSIDERING THE TESTIMONY OF ANY WITNESS, YOU MAY TAKE INTO ACCOUNT:

1. THE OPPORTUNITY AND ABILITY OF THE WITNESS TO SEE OR HEAR OR KNOW THE THINGS THEY TESTIFIED TO;
2. THE WITNESS' MEMORY;
3. THE WITNESS' MANNER WHILE TESTIFYING;
4. THE WITNESS' INTEREST IN THE OUTCOME OF THE CASE AND ANY BIAS OR PREJUDICE;
5. WHETHER OTHER EVIDENCE CONTRADICTED THE WITNESS' TESTIMONY;
6. THE REASONABLENESS OF THE WITNESS' TESTIMONY IN LIGHT OF ALL THE EVIDENCE; AND
7. ANY OTHER FACTORS THAT BEAR ON BELIEVABILITY.

THE WEIGHT OF THE EVIDENCE AS TO A FACT DOES NOT NECESSARILY DEPEND ON THE NUMBER OF WITNESSES WHO TESTIFY.

12. **EVIDENCE: STATEMENTS BY DEFENDANT**

YOU HAVE HEARD TESTIMONY THAT THE DEFENDANT MADE CERTAIN  
STATEMENTS. IT IS FOR YOU TO DECIDE:

1. WHETHER THE DEFENDANT MADE ANY STATEMENT; AND
2. IF SO, HOW MUCH WEIGHT TO GIVE IT.

IN MAKING THOSE DECISIONS, YOU SHOULD CONSIDER ALL OF THE  
EVIDENCE ABOUT THE STATEMENT, INCLUDING THE CIRCUMSTANCES UNDER  
WHICH IT MAY HAVE BEEN MADE.

1 **13. TRIAL ON CHARGES IN THE INDICTMENT**

2 THE DEFENDANT IS ON TRIAL ONLY FOR THE CRIMES CHARGED IN THE  
3 INDICTMENT, NOT FOR ANY OTHER ACTIVITIES. YOUR DETERMINATION MUST BE  
4 MADE ONLY FROM THE EVIDENCE IN THE CASE. YOU SHOULD CONSIDER  
5 EVIDENCE ABOUT THE ACTS, STATEMENTS, AND INTENTIONS OF OTHERS, OR  
6 EVIDENCE ABOUT OTHER ACTS OF THE DEFENDANT, ONLY AS THEY RELATE TO  
7 THESE CHARGES AGAINST THIS DEFENDANT.

14. COUNT ONE--CONSPIRACY: ELEMENTS OF THE OFFENSE

THE DEFENDANT IS CHARGED IN COUNT ONE OF THE INDICTMENT WITH CONSPIRING TO SUBMIT AN APPLICATION FOR A UNITED STATES PASSPORT WHILE KNOWING THAT SAID APPLICATION CONTAINED FALSE OR FRAUDULENT INFORMATION. IN ORDER FOR YOU TO FIND THE DEFENDANT GUILTY OF THIS CHARGE, THE GOVERNMENT MUST PROVE EACH OF THE FOLLOWING ELEMENTS BEYOND A REASONABLE DOUBT:

*FIRST, THERE WAS AN AGREEMENT BETWEEN TWO OR MORE PERSONS TO COMMIT AT LEAST ONE CRIME AS CHARGED IN THE INDICTMENT;*

*SECOND, THE DEFENDANT BECAME A MEMBER OF THE CONSPIRACY KNOWING AT LEAST ONE OF ITS OBJECTS AND INTENDING TO HELP ACCOMPLISH IT; AND*

*THIRD, ONE OF THE MEMBERS OF THE CONSPIRACY PERFORMED AT LEAST ONE OVERT ACT FOR THE PURPOSE OF CARRYING OUT THE CONSPIRACY, WITH ALL OF YOU AGREEING ON A PARTICULAR OVERT ACT THAT YOU FIND WAS COMMITTED.*

I SHALL DISCUSS WITH YOU BRIEFLY THE LAW RELATING TO EACH OF THESE ELEMENTS. A CONSPIRACY IS A KIND OF CRIMINAL PARTNERSHIP--AN AGREEMENT OF TWO OR MORE PERSONS TO COMMIT ONE OR MORE CRIMES. THE CRIME OF CONSPIRACY IS THE AGREEMENT TO DO SOMETHING UNLAWFUL; IT DOES NOT MATTER WHETHER THE CRIME AGREED UPON WAS COMMITTED.

FOR A CONSPIRACY TO HAVE EXISTED, IT IS NOT NECESSARY THAT THE CONSPIRATORS MADE A FORMAL AGREEMENT OR THAT THEY AGREED ON EVERY DETAIL OF THE CONSPIRACY. IT IS NOT ENOUGH, HOWEVER, THAT THEY SIMPLY MET, DISCUSSED MATTERS OF COMMON INTEREST, ACTED IN SIMILAR WAYS, OR PERHAPS HELPED ONE ANOTHER. YOU MUST FIND THAT THERE WAS A PLAN TO COMMIT AT LEAST ONE OF THE CRIMES ALLEGED IN THE INDICTMENT AS AN OBJECT OF THE CONSPIRACY WITH ALL OF YOU AGREEING AS TO THE PARTICULAR CRIME THAT THE CONSPIRATORS AGREED TO COMMIT.

1 ONE BECOMES A MEMBER OF A CONSPIRACY BY WILLFULLY  
2 PARTICIPATING IN THE UNLAWFUL PLAN WITH THE INTENT TO ADVANCE OR  
3 FURTHER SOME OBJECT OR PURPOSE OF THE CONSPIRACY, EVEN THOUGH THE  
4 PERSON DOES NOT HAVE FULL KNOWLEDGE OF ALL THE DETAILS OF THE  
5 CONSPIRACY. FURTHERMORE, ONE WHO WILLFULLY JOINS AN EXISTING  
6 CONSPIRACY IS AS RESPONSIBLE FOR IT AS THE ORIGINATORS. ON THE OTHER  
7 HAND, ONE WHO HAS NO KNOWLEDGE OF A CONSPIRACY, BUT HAPPENS TO  
8 ACT IN A WAY WHICH FURTHERS SOME OBJECT OR PURPOSE OF THE  
9 CONSPIRACY, DOES NOT THEREBY BECOME A CONSPIRATOR. SIMILARLY, A  
10 PERSON DOES NOT BECOME A CONSPIRATOR MERELY BY ASSOCIATING WITH  
11 ONE OR MORE PERSONS WHO ARE CONSPIRATORS, NOR MERELY BY KNOWING  
12 THAT A CONSPIRACY EXISTS.



1 **15. COUNT ONE--CONSPIRACY: DURATION AND NATURE OF**  
2 **PARTICIPATION**

3 A CONSPIRACY MAY CONTINUE FOR A LONG PERIOD OF TIME AND MAY  
4 INCLUDE THE PERFORMANCE OF MANY TRANSACTIONS. IT IS NOT NECESSARY  
5 THAT ALL MEMBERS OF THE CONSPIRACY JOIN AT THE SAME TIME, AND ONE  
6 MAY BECOME A MEMBER OF A CONSPIRACY WITHOUT FULL KNOWLEDGE OF ALL  
7 THE DETAILS OF THE UNLAWFUL SCHEME, OR OF THE NAMES, IDENTITIES, OR  
8 LOCATIONS OF ALL OF THE OTHER MEMBERS.  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 **16. COUNT ONE--CONSPIRACY: AS CHARGED IN THE INDICTMENT**

2 YOU MUST DECIDE WHETHER THE CONSPIRACY CHARGED IN THE  
3 INDICTMENT EXISTED, AND, IF IT DID, WHO AT LEAST SOME OF ITS MEMBERS  
4 WERE. IF YOU FIND THAT THE CONSPIRACY CHARGED DID NOT EXIST, THEN YOU  
5 MUST RETURN A NOT GUILTY VERDICT ON THAT CHARGE, EVEN THOUGH YOU  
6 MAY FIND THAT SOME OTHER CONSPIRACY EXISTED. SIMILARLY, IF YOU FIND  
7 THAT THE DEFENDANT WAS NOT A MEMBER OF THE CHARGED CONSPIRACY,  
8 THEN YOU MUST FIND THE DEFENDANT NOT GUILTY, EVEN THOUGH THE  
9 DEFENDANT MAY HAVE BEEN A MEMBER OF SOME OTHER CONSPIRACY.

17. COUNT TWO—FALSE STATEMENT IN APPLICATION FOR A PASSPORT:  
ELEMENTS OF THE OFFENSE

THE DEFENDANT IS CHARGED IN COUNT TWO OF THE INDICTMENT  
WITH KNOWINGLY AND INTENTIONALLY MAKING A FALSE STATEMENT IN AN  
APPLICATION FOR A PASSPORT WITH THE INTENT TO SECURE THE ISSUANCE OF  
A PASSPORT UNDER THE AUTHORITY OF THE UNITED STATES, IN VIOLATION  
OF SECTION 2422 OF TITLE 18 OF THE UNITED STATES CODE. IN ORDER FOR THE  
DEFENDANT TO BE FOUND GUILTY OF THAT CHARGE, THE GOVERNMENT  
MUST PROVE BEYOND A REASONABLE DOUBT:

*FIRST, THAT THE DEFENDANT KNOWINGLY AND INTENTIONALLY MADE A  
FALSE OR FRAUDULENT STATEMENT IN AN APPLICATION FOR A UNITED  
STATES PASSPORT, AND*

*SECOND, THE DEFENDANT INTENDED TO SECURE THE ISSUANCE OF A  
UNITED STATES PASSPORT.*

18. COUNT THREE-SUBORNATION OF PERJURY: ELEMENTS OF THE OFFENSE

THE DEFENDANT IS CHARGED IN COUNT THREE WITH SUBORNATION OF PERJURY IN VIOLATION OF SECTION 1622 OF TITLE 18 OF THE UNITED STATES CODE. IN ORDER FOR THE DEFENDANT TO BE FOUND GUILTY OF THAT CHARGE, THE GOVERNMENT MUST PROVE EACH OF THE FOLLOWING ELEMENTS BEYOND A REASONABLE DOUBT:

FIRST, THE DEFENDANT PERSUADED ROSE MAYO OMAR REYES TO MAKE FALSE STATEMENTS UNDER OATH BEFORE THE U.S. PASSPORT OFFICE IN SAIPAN, IN THE NORTHERN MARIANA ISLANDS;

SECOND, ROSE MAYO OMAR REYES FALSELY STATED UNDER OATH THAT THE DEFENDANT WAS HER SPOUSE AND/OR THAT HER NAME WAS ROSE MAYO OMAR REYES AMIN; AND

THIRD, THE DEFENDANT KNEW THE STATEMENT WAS FALSE.

19. AIDING AND ABETTING

A DEFENDANT MAY BE FOUND GUILTY EVEN IF THE DEFENDANT PERSONALLY DID NOT COMMIT THE ACT OR ACTS CONSTITUTING THE CRIME BUT AIDED AND ABETTED IN ITS COMMISSION. TO PROVE THE DEFENDANT GUILTY OF AIDING AND ABETTING, THE GOVERNMENT MUST PROVE BEYOND A REASONABLE DOUBT:

FIRST, THE CRIME CHARGED IN THE INDICTMENT WAS COMMITTED BY SOMEONE;

SECOND, THE DEFENDANT KNOWINGLY AND INTENTIONALLY AIDED, COUNSELED, COMMANDED, INDUCED OR PROCURED THAT PERSON TO COMMIT EACH ELEMENT OF THE CRIME CHARGED; AND

THIRD, THE DEFENDANT ACTED BEFORE THE CRIME WAS COMPLETED.

IT IS NOT ENOUGH THAT THE DEFENDANT MERELY ASSOCIATED WITH THE PERSON COMMITTING THE CRIME, OR UNKNOWINGLY OR UNINTENTIONALLY DID THINGS THAT WERE HELPFUL TO THAT PERSON, OR WAS PRESENT AT THE SCENE OF THE CRIME. THE EVIDENCE MUST SHOW BEYOND A REASONABLE DOUBT THAT THE DEFENDANT ACTED WITH THE KNOWLEDGE AND INTENTION OF HELPING THAT PERSON COMMIT THE CRIME BEING CHARGED. THE GOVERNMENT IS NOT REQUIRED TO PROVE PRECISELY WHICH DEFENDANT ACTUALLY COMMITTED THE CRIME AND WHICH DEFENDANT AIDED AND ABETTED.

20. **FRAUDULENT MARRIAGE**

IN ORDER TO DETERMINE GUILT OR INNOCENCE IN ANY OF THE THREE CHARGES ALLEGED IN THE INDICTMENT, YOU MUST FIRST DECIDE WHETHER THE MARRIAGE BETWEEN THE DEFENDANT AND ROSE MAYO OMAR REYES WAS VALID OR FRAUDULENT. THE FOLLOWING WILL BE HELPFUL TO YOU IN REACHING THIS DETERMINATION:

*DEFINITION:* A VALID MARRIAGE IS WHERE, ON THE DAY OF THE WEDDING, THE BRIDE AND GROOM INTENDED TO ENTER A LIFE THAT CONFORMS WITH THE COMMON UNDERSTANDING OF THE DUTIES AND OBLIGATIONS OF MARRIAGE.

*EFFECT:* SHOULD YOU DETERMINE THAT THE MARRIAGE WAS NOT VALID, THEN THE LAW SAYS IT IS AS IF THE MARRIAGE NEVER TOOK PLACE. IN OTHER WORDS, A MARRIAGE DETERMINED BY YOU TO BE FRAUDULENT IS A MARRIAGE THAT NEVER EXISTED FOR ANY LEGAL PURPOSE.

21. **ADDITIONAL DEFINITIONS**

THE FOLLOWING DEFINITIONS WILL BE HELPFUL TO YOU:

*"FALSE OR FRAUDULENT STATEMENT"*: A FALSE OR FRAUDULENT STATEMENT MEANS THAT THE DEFENDANT MADE THE STATEMENT WITH A FRAUDULENT PURPOSE IN MIND. IN OTHER WORDS, A STATEMENT, WHILE TECHNICALLY TRUE, MIGHT STILL BE FALSE IF THE GOAL OF MAKING THAT STATEMENT WAS TO ACCOMPLISH A FRAUD.

*"KNOWINGLY"*: AN ACT IS DONE KNOWINGLY IF THE DEFENDANT IS AWARE OF THE FACT AND DOES NOT ACT THROUGH IGNORANCE, MISTAKE, OR ACCIDENT. THE GOVERNMENT IS NOT REQUIRED TO PROVE THAT THE DEFENDANT KNEW THAT HIS ACTS OR OMISSIONS WERE UNLAWFUL. YOU MAY CONSIDER EVIDENCE OF THE DEFENDANT'S WORDS, ACTS, OR OMISSIONS, ALONG WITH ALL THE OTHER EVIDENCE, IN DECIDING WHETHER THE DEFENDANT ACTED KNOWINGLY.

1 **22. EACH COUNT A SEPARATE CRIME**

2 A SEPARATE CRIME IS CHARGED AGAINST THE DEFENDANT IN EACH COUNT.  
3 YOU MUST DECIDE THE CASE ON EACH CRIME CHARGED AGAINST THE  
4 DEFENDANT SEPARATELY. YOUR VERDICT ON ANY COUNT SHOULD NOT  
5 CONTROL YOUR VERDICT ON ANY OTHER COUNT. ALL OF THE INSTRUCTIONS  
6 APPLY TO EACH COUNT UNLESS I INSTRUCT YOU OTHERWISE.



1 **23. CONDUCT OF DELIBERATIONS**

2 WHEN YOU BEGIN YOUR DELIBERATIONS, YOU SHOULD ELECT ONE  
3 MEMBER OF THE JURY AS YOUR FOREPERSON. THAT PERSON WILL PRESIDE  
4 OVER THE DELIBERATIONS AND SPEAK FOR YOU HERE IN COURT. YOU WILL  
5 THEN DISCUSS THE CASE WITH YOUR FELLOW JURORS TO REACH AGREEMENT IF  
6 YOU CAN DO SO. YOUR VERDICT, WHETHER GUILTY OR NOT GUILTY, MUST BE  
7 UNANIMOUS.

8 EACH OF YOU MUST DECIDE THE CASE FOR YOURSELF, BUT YOU SHOULD  
9 DO SO ONLY AFTER YOU HAVE CONSIDERED ALL OF THE EVIDENCE, DISCUSSED  
10 IT FULLY WITH THE OTHER JURORS, AND LISTENED TO THE VIEWS OF YOUR  
11 FELLOW JURORS.

12 DO NOT BE AFRAID TO CHANGE YOUR OPINION IF THE DISCUSSION  
13 PERSUADES YOU THAT YOU SHOULD, BUT DO NOT COME TO A DECISION SIMPLY  
14 BECAUSE OTHER JURORS THINK IT IS RIGHT.

15 IT IS IMPORTANT THAT YOU ATTEMPT TO REACH A UNANIMOUS VERDICT  
16 BUT, OF COURSE, ONLY IF EACH OF YOU CAN DO SO AFTER HAVING MADE YOUR  
17 OWN CONSCIENTIOUS DECISION. DO NOT CHANGE AN HONEST BELIEF ABOUT  
18 THE WEIGHT AND EFFECT OF THE EVIDENCE SIMPLY TO REACH A VERDICT.

19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 **24. JUROR NOTES**

2 SOME OF YOU HAVE TAKEN NOTES DURING THE TRIAL. WHETHER OR NOT  
3 YOU TOOK NOTES, YOU SHOULD RELY ON YOUR OWN MEMORY OF WHAT WAS  
4 SAID. NOTES ARE ONLY TO ASSIST YOUR MEMORY. YOU SHOULD NOT BE  
5 OVERLY INFLUENCED BY THE NOTES.

1 **25. PUNISHMENT IRRELEVANT**

2 THE PUNISHMENT PROVIDED BY LAW FOR THIS CRIME IS FOR THE COURT  
3 TO DECIDE. YOU MAY NOT CONSIDER PUNISHMENT IN DECIDING WHETHER THE  
4 GOVERNMENT HAS PROVED ITS CASE AGAINST THE DEFENDANT BEYOND A  
5 REASONABLE DOUBT.

1 **26. BASIS OF VERDICT**

2 YOUR VERDICT MUST BE BASED SOLELY ON THE EVIDENCE AND ON THE  
3 LAW AS I HAVE GIVEN IT TO YOU IN THESE INSTRUCTIONS. HOWEVER, NOTHING  
4 THAT I HAVE SAID OR DONE IS INTENDED TO SUGGEST WHAT YOUR VERDICT  
5 SHOULD BE—THAT IS ENTIRELY FOR YOU TO DECIDE.

1 **27. VERDICT FORM**

2 A VERDICT FORM HAS BEEN PREPARED FOR YOU. AFTER YOU HAVE  
3 REACHED A UNANIMOUS AGREEMENT ON A VERDICT, YOUR FOREPERSON WILL  
4 FILL IN THE FORM THAT HAS BEEN GIVEN TO YOU, SIGN AND DATE IT, AND  
5 ADVISE THE BAILIFF THAT YOU ARE READY TO RETURN TO THE COURTROOM.

1 **28. COMMUNICATION WITH THE COURT**

2 IF IT BECOMES NECESSARY DURING YOUR DELIBERATIONS TO  
3 COMMUNICATE WITH ME, YOU MAY SEND A NOTE THROUGH THE BAILIFF,  
4 SIGNED BY YOUR FOREPERSON OR BY ONE OR MORE MEMBERS OF THE JURY. NO  
5 MEMBER OF THE JURY SHOULD EVER ATTEMPT TO COMMUNICATE WITH ME  
6 EXCEPT BY A SIGNED WRITING, AND I WILL RESPOND TO THE JURY CONCERNING  
7 THE CASE ONLY IN WRITING, OR HERE IN OPEN COURT. IF YOU SEND OUT A  
8 QUESTION, I WILL CONSULT WITH THE LAWYERS BEFORE ANSWERING IT, WHICH  
9 MAY TAKE SOME TIME. YOU MAY CONTINUE YOUR DELIBERATIONS WHILE  
10 WAITING FOR THE ANSWER TO ANY QUESTION. REMEMBER THAT YOU ARE NOT  
11 TO TELL ANYONE—including me—how the jury stands, numerically or  
12 OTHERWISE, ON THE QUESTION OF THE GUILT OF THE DEFENDANT, UNTIL AFTER  
13 YOU HAVE REACHED A UNANIMOUS VERDICT OR HAVE BEEN DISCHARGED.